

Disciplinary and Other FINRA Actions

Firm Fined, Individual Sanctioned

Castlewood Securities, L.L.C. (CRD # 45179, Chicago, Illinois) and Fred Owen Goldman (CRD #1857380, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent (AWC) in which the firm was censured, fined \$250,000 and required to pay \$418,597.10 in restitution within 60 days of the issuance of the AWC to compensate affected mutual funds for the profits realized from improper market timing. In addition, an officer of the firm must certify to FINRA that payments to the fund companies have been made and must provide FINRA with copies of canceled checks or other documents evidencing such payment. Goldman was censured, fined \$20,000 and required to requalify by examination as a general securities principal within 90 days. If Goldman fails to requalify as a general securities principal on or before that date, his registration in that capacity will be suspended on that date until such time as he passes the required examination.

Without admitting or denying the findings, the firm and Goldman consented to the described sanctions and to the entry of findings that the firm facilitated deceptive practices regarding market timing in the sub-accounts of variable annuities for hedge fund clients. In employing the strategy, the hedge fund clients used individuals and corporate entities as nominees to purchase variable annuity contracts from numerous insurance companies. The firm enabled the hedge fund clients to purchase these contracts, which they used to carry out frequent transfers among the sub-accounts of certain variable annuities without being detected by the insurance companies or by their respective sub-account fund managers. The findings stated that even after three insurance companies sent multiple notices to the firm that the clients' trading strategy was disruptive, and contrary to the language of the applicable prospectus and to the interests of long-term investors and should not be continued, the firm continued to sell variable annuity contracts to the hedge fund clients. The findings also stated that the firm knew, or should have known, that the prospectuses for these variable annuities stated that the products were not suitable for market timing. The findings also included that, as a result of the firm's activities, the hedge fund clients executed transfers in the sub-accounts of variable annuities from the companies, after receiving restriction letters from the companies, yielding profits of \$418,597.10 at the expense of long-term investors in the mutual funds. FINRA found that the firm failed to preserve for three years, and/or to preserve in an accessible place for two years, electronic mail communications its agents and employees received and sent that related to its business as a broker or dealer. FINRA also found that Goldman, who was the principal at the firm and responsible for the supervision of variable annuity activities, failed to adequately supervise the firm's variable annuity business and the hedge fund clients' market timing activities. (FINRA Case #SAF2004040701)

Reported for October 2007

FINRA has taken disciplinary actions against the following firms and individuals for violations of NASD rules federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

Firms and Individuals Fined

B. Riley and Co., Inc. (CRD #40355, Los Angeles, California), Knut L. Grevle (CRD #4152295, Registered Principal, Los Angeles, California) and Sherry Lee Tejeda (CRD #2478647, Registered Principal, Tujunga, California) submitted a Letter of Acceptance, Waiver and Consent in which they were censured; the firm was fined \$265,000, of which \$10,000 was joint and several with Grevle, and \$30,000 was joint and several with Tejeda. Grevle was fined an additional \$5,000. The firm was also required to revise its written supervisory procedures with respect to best execution, the three quote rule, the Order Audit Trail System (OATS), Securities and Exchange Commission (SEC) Rule 11Ac1-6, limit order display, limit order protection, anti-competitive practices, short sales, recordkeeping, trade reporting, the Automated Confirmation Transaction Service (ACT) reporting, registration, quoting or trading during a trading halt, and NASD Rules 5262, 5263, 6330 and 2320(g)(2).

Without admitting or denying the findings, the firm, Grevle and Tejeda consented to the described sanctions and to the entry of findings that the firm did not submit new order or execution reports to OATS and submitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm's records contained numerous omissions and inaccuracies, and the firm failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place, and did not create brokerage order memorandums when the firm received orders from other dealers. The findings also stated that the firm improperly handled short sales due to a misunderstanding as to when a transaction was a short sale, and as a result, when the firm executed short sale transactions on a down bid in its proprietary account while holding a customer long sale order in NASDAQ National Market (NNM) securities in which the firm was not a market maker, the firm sold the securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also included that when the firm executed short sale transactions while holding a customer long sale order when the firm was not a market maker in the security, the firm effected short sales for the firm's proprietary account(s) and failed to make/annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery of the securities by settlement date.

FINRA found that the firm, when selling a security while holding a customer long sale order in the security when the firm did not have an inventory position, executed short sale transactions and failed to report each of these transactions to the Trade Reporting Facility, OTC Reporting Facility, NASDAQ or ACT with a short sale modifier. FINRA also found that the firm incorrectly reported long sales as short sales to ACT when executing principal transactions while holding a customer short sale order in the security when the firm had an inventory position in the security. In addition, FINRA determined that the firm effected short sales of securities registered on a national securities exchange at or below the price at which the last sale of each security, regular way, was reported pursuant to an effective transaction reporting plan. Moreover, the findings stated that the firm failed to report the execution time for cross transactions in last sale reports, failed to report the correct execution time in last sale reports, failed to report last sale reports of transactions in designated securities; failed to timely submit cancellation reports, incorrectly reported transactions as non-tape transactions

and incorrectly reported capacity. The findings stated that due to a misunderstanding of when a trade was a riskless principal transaction, the firm consistently misreported riskless principal transactions; incorrectly reported to the appropriate trade reporting system for the specific market involved, the second leg of “riskless” principal transactions because it incorrectly designated the capacity as “agent;” and failed to submit for the offsetting, “riskless” portion of “riskless” principal transactions either a clearing-only report with a capacity indicator of “riskless principal” or a non-tape, non-clearing report with a “riskless principal” capacity indicator. The findings also stated that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price; failed to disclose the correct price on one occasion and disclosed the incorrect market center on customer confirmations. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, the three quote rule, OATS, SEC Rule 11Ac1-6, limit order display, limit order protection, anti-competitive practices, short sales, recordkeeping, trade reporting, ACT reporting, registration, quoting or trading during a trading halt, and NASD Rules 5262, 5263, 6330 and 2320(g)(2).

FINRA found that the firm, acting through Grevle and Tejeda, failed to adequately enforce its written supervisory procedures that required the firm to conduct and document some of the reviews described in its written supervisory procedures, and failed to adequately supervise OATS, recordkeeping, registration, trade reporting and ACT reporting. FINRA also found that the firm, acting through Tejeda, failed to register Grevle, who was engaged in the firm’s securities business and functioning as a principal in the appropriate registration category. (FINRA Case #20050033034-01)

Dublind Securities, Inc. (CRD #32534, Greenwich, Connecticut) and Nestor Joseph Olivier (CRD #714206, Registered Principal, Saddle River, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the findings, the firm and Olivier consented to the described sanctions and to the entry of findings that the firm, acting through Olivier, filed late Financial and Operations Combined Uniform Single (FOCUS) Reports and failed to timely file its Schedule I Report on Revenue and Expenses. The findings stated that the firm, acting through Olivier, failed to maintain a fidelity bond and failed to notify FINRA on the termination of the fidelity bond. The findings also stated that Olivier acted in a capacity at the firm that required registration, while his registration status with FINRA was inactive due to his failure to complete the Regulatory Element of the Continuing Education Requirements. (FINRA Case #200600666501)

Weller, Anderson & Co., Ltd. (CRD #23736, Houston, Texas) and Fenner Reese Weller Jr. (CRD #830278, Registered Principal, Kingwood, Texas) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the findings, the firm and Weller consented to the described sanctions and to the entry of findings that the firm, acting through Weller, failed to terminate the “minimum-maximum” offering memorandum and return investor funds after failing to raise the minimum offering amount represented by the offering memorandum during the offering period, thereby rendering the representations in the memorandum false. The offering memorandum represented

that investor funds would be deposited into a bank escrow account until the minimum offering amount was raised, and that investor funds would be promptly returned if the minimum offering amount was not raised during the offering period. The findings also stated that the firm, acting through Weller, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities, laws, regulations and NASD rules regarding contingent securities offerings. **(FINRA Case #2006003681201)**

Firms Fined

BNP Paribas Securities Corp. (CRD #15794, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit Route Reports related to Cancel/Replace reports. The findings stated that the firm submitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order submitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #20050000071-01)**

Citigroup Global Markets, Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that during a review of its short interest reporting, it discovered that it had misreported short interest positions to FINRA for an indeterminate period of time due to computer coding issues. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning short interest reporting. **(FINRA Case #20041000119-01)**

Dresdner Kleinwort Wasserstein Securities LLC nka Dresdner Kleinwort Securities LLC (CRD #41957, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$21,000 and required to revise its written supervisory procedures with respect to SEC Rules 11Ac1-5 (now SEC Rule 605), 11Ac1-6 (now SEC Rule 606), best execution, trade reporting, sale transactions, trading halts, employee registration, anti-intimidation/coordination, soft dollar accounts, books & records and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports and execution reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm failed to provide written notification to its customers regarding the average price or correct price of the transactions executed, that details of the average price were available upon request, and the correct capacity in which the firm acted. The findings also stated that the firm failed to timely report Reportable Order Events (ROEs) to OATS. The findings also included that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market (NSM) that were not in the electronic form prescribed by FINRA and were repairable. FINRA found that the OATS system rejected the reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct or replace all of the reports. FINRA also found that the firm's supervisory system did not provide

for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD Rules concerning SEC Rules 11Ac1-5 (now SEC Rule 605), 11Ac1-6 (now SEC Rule 606), best execution, trade reporting, sale transactions, trading halts, employee registration, anti-intimidation/coordination, soft dollar accounts, books & records and OATS. (FINRA Case #20050009836-01)

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm's order tickets for corporate bond transactions were deficient, in that the order tickets failed to identify the terms and conditions of the order; did not contain the time of receipt and did not indicate whether the order was solicited or unsolicited. (FINRA Case #2006003821801)

Instinet, LLC (CRD #7897, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures with respect to best execution, short sales, trading halts and trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customers that transactions were executed at an average price. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, short sales, trading halts and trade reporting. (FINRA Case #20050020916-01)

Investors Capital Corporation (CRD #30613, Lynnfield, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$75,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with federal securities laws, regulations and NASD rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that some of its registered representatives sent business-related email through external electronic servers without first obtaining firm approval. The findings stated that with respect to some of those instances, the firm failed to provide for reasonable follow-up and review upon learning that the registered representatives were using external email accounts, did not timely detect and prevent such use and did not effectively enforce its procedures relating to external email accounts. The findings also stated that the firm failed to retain certain business-related emails its registered representatives sent and received using external accounts and, as a result, it failed to maintain and preserve all of its electronic communications as the Securities Exchange Act of 1934 and Rule 17a-4 requires. (FINRA Case #2006003901001)

Jesup & Lamont Securities Corp. (CRD #39056, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures with respect to municipal securities trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly reported information to the Real-time Transaction Reporting System (RTRS) that it

should not have reported. The findings stated that the firm failed to submit information to the National Securities Clearing Corporation's Real-time Trade Matching automated comparison system in the manner prescribed by the RTRS Users Manual and the MSRB's Notice on Comparison of Inter-Dealer Deliveries that Do Not Represent Inter-Dealer Transactions. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning municipal securities reporting. **(FINRA Case #20060058655-01)**

JonesTrading Institutional Services LLC (CRD #6888, Westlake Village, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Cancel/Replace and Route Reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm submitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order submitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #20050009206-01)**

K-One Investment Company, Inc. (CRD # 16156, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve copies of internal and external electronic email communications as Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4 require. The findings stated that the firm failed to implement and enforce an adequate supervisory system governing the review of external communication. **(FINRA Case #2006003768501)**

Maxim Group, LLC (CRD #120708, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted reports with respect to equity securities traded on the NSM to OATS that were not in the electronic form FINRA prescribed and were repairable. The findings stated that OATS rejected the subject reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct the reports. **(FINRA Case #20060041435-02)**

Merrion Securities, LLC (CRD #30145, Westfield, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports that contained an inaccurate firm Market Participant Identification (MPID) to OATS. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that an initialed supervision log was to be maintained to evidence supervision of OATS reporting. **(FINRA Case #20050000076-01)**

Miller Johnson Steichen Kinnard, Inc. (CRD #694, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders and failed to properly mark the orders as short. The findings stated that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings also stated that the firm made available a report on the covered orders in national market system securities that it received for execution from any person that included incorrect information. **(FINRA Case #20050011915-01)**

Pali Capital, Inc. (CRD #117783, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an associated person to engage in proprietary equity trading on the firm's behalf without being properly registered. The findings stated that the firm, while serving as the placement agent for an issuer conducting a private placement, instructed the escrow agent bank for the private placement to release funds to the issuer before the contingency amount set forth in the escrow agreement had been received in the escrow account. **(FINRA Case #2005000717001)**

Seaboard Securities, Inc. (CRD #755, Florham Park, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report 167 municipal securities transactions to the MSRB, and failed to report an accurate price in one instance. **(FINRA Case #2006003834401)**

Stifel, Nicolaus & Co., Inc. (CRD #793, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. **(FINRA Case #20050016439-01)**

Tradestation Securities, Inc. (CRD #39473, Plantation, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders and, for each order, failed to make an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. **(FINRA Case #20070090219-02)**

Trend Trader, LLC (CRD #43635, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting through its financial and operations principal, it utilized the instrumentalities of interstate commerce to engage in the securities business while failing to maintain required minimum net capital. **(FINRA Case #2005003283102)**

Individuals Barred or Suspended

Barry Lynn Amsler (CRD #3162459, Registered Representative, Larkspur, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000, which includes disgorgement of \$31,860 in financial benefits received from the sale of promissory notes, and suspended from association with any FINRA member in any capacity for 24 months. The fine is due either immediately upon reassociation with a member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Amsler consented to the described sanctions and to the entry of findings that he engaged in private securities transactions for compensation, and failed to give his member firm written notice. The findings stated that Amsler's member firm did not authorize Amsler to engage in such activities. In fact, the firm's written procedures specifically prohibited representatives from becoming involved with the sale of promissory notes.

The suspension in any capacity is in effect from August 20, 2007, through August 19, 2009. **(FINRA Case #2006005252001)**

Ramona Marie Bianchi (CRD #3126133, Registered Representative, Harrisburg, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bianchi consented to the described sanction and to the entry of findings that she obtained possession of an automatic teller machine (ATM) card for a public customer's account and, without the customer's knowledge or authorization, used the ATM card to make unauthorized cash withdrawals from the customer's bank account, and unauthorized purchases totaling \$68,000 for her own benefit. **(FINRA Case #2007008767001)**

Bruce David Bullock (CRD #1568368, Registered Representative, Newport Coast, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Bullock consented to the described sanctions and to the entry of findings that he held several seminars to promote the sale of equity indexed annuities and fixed annuities to retirees, promoted the seminars through the use of invitations and used a presentation that contained unwarranted, misleading, unsubstantiated and promissory statements, including false assurances of riskless investing and guarantees that the retirees would never run out of money.

The suspension in any capacity was in effect from September 17, 2007, through October 12, 2007. **(FINRA Case #2006005693601)**

Brandon W. Cade (CRD #5062931, Registered Representative, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cade withdrew \$1,300 from his teller cash drawer at a bank affiliate of his member firm without permission and used the funds for his own purposes. The findings stated that Cade failed to respond to FINRA requests for information. **(FINRA Case #2006006367801)**

Wayne Kenneth Campbell Jr. (CRD #4676905, Registered Representative, Dover, New Hampshire) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid before Campbell reassociates with a FINRA member following the suspension, or prior to any application or request for relief from statutory disqualification is filed. Without admitting or denying the findings, Campbell consented to the described sanctions and to the entry of findings that he signed public customers' names to account transfer forms and to documents used in connection with the purchase of variable annuities without the customers' knowledge, authorization or consent.

The suspension in any capacity is in effect from September 17, 2007, through December 15, 2007. **(FINRA Case #2006006481301)**

Dale Lewis Cash (CRD #4909387, Registered Representative, Oxford, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cash consented to the described sanction and to the entry of findings that he affixed a bank financial specialist's signature to an instrument without the specialist's authorization, knowledge or consent in order to withdraw \$5,100 from the bank for a public customer's benefit, but failed to assign the funds to any customer account. The findings stated that Cash's failure to assign the funds to a customer account prevented the bank from identifying the customer, thereby incurring a loss for the bank. **(FINRA Case #2006006319201)**

Therese C. Castro (CRD #2625196, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$15,000, suspended from association with any FINRA member firm in any capacity for one year and barred from association with any FINRA member firm in a supervisory/principal capacity. The fine must be paid before Castro reassociates with any FINRA member following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Castro consented to the described sanctions and to the entry of findings that she asked an unregistered employee of her member firm or its affiliate to place Castro's initials on numerous pieces of branch correspondence as evidence that she had reviewed the correspondence, although she had not done so. The findings stated that Castro falsely certified in monthly reports submitted to her member firm that a supervisor had reviewed daily trade blotters when many had not been reviewed.

The suspension in any capacity is in effect from September 17, 2007, through September 16, 2008. **(FINRA Case #2005002680301)**

Anthony Cipriano (CRD #2998665, Registered Representative, West Islip, New York) was fined \$40,000, ordered to pay \$606, plus interest, in restitution to a public customer, suspended from association with any FINRA member firm in any capacity for one year and required to requalify by examination before acting in any registered capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) Decision. The sanctions were based on findings that Cipriano failed to disclose material information and made baseless price predictions when recommending a speculative stock to several public customers.

The suspension in any capacity is in effect from September 17, 2007, through September 16, 2008. **(FINRA Case #C0720050029)**

James Richard Clayborn (CRD #4844986, Registered Representative, Bristol, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity and required to pay \$118,287.39, plus interest, in restitution to public customers. The restitution must be paid before Clayborn reassociates with a FINRA member following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Clayborn consented to the described sanctions and to the entry of findings that he misused approximately \$150,000 from public customers, for his personal expenses. The findings stated that Clayborn, in an effort to conceal his misappropriation of funds from the customers, created and distributed a false account statement that purportedly verified that \$80,000 was invested with his member firm for the customers. **(FINRA Case #2006005927801)**

Michael R. Colletti (CRD #2831635, Registered Principal, East Elmhurst, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, Colletti consented to the described sanction and to the entry of findings that he submitted timesheets for certain individuals that were false when he executed them, in that he knew the individuals did not work the hours that the timesheets presented. **(FINRA Case #2005003383701)**

Harold Lee Connell (CRD #1482623, Registered Principal, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member firm in any capacity for 30 days. Without admitting or denying the findings, Connell consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from September 17, 2007, through October 16, 2007. **(FINRA Case #2006005321601)**

Thomas Anthony DeMarco (CRD #4608717, Registered Representative, Springfield, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, DeMarco consented to the described sanction and to the entry of findings that he directed that \$5,000 were withdrawn from a public customer's savings account to purchase additional shares in mutual funds, but the funds were not

used as directed. The findings stated that DeMarco discovered the funds in his desk drawer six weeks later, at which time he forwarded the funds to his member firm. The findings also stated that DeMarco failed to timely respond to FINRA requests for information. **(FINRA Case #2006004803301)**

Carolyn Sue Everhard (CRD #2344119, Registered Representative, Cincinnati, Ohio) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Everhard received \$6,400 from a public customer for investment purposes and converted the funds to her own use and benefit without the customer's knowledge, authorization or consent. The findings stated that Everhard failed to fully respond in a timely manner to FINRA requests for information. **(FINRA Case #20050025930)**

Robert Finstra (CRD #5127389, Associated Person, Brandon, Florida) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Finstra consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Finstra failed to respond to FINRA requests for information. **(FINRA Case #2006005704601)**

Norman R. Flemens (CRD #3212865, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid immediately upon reassociation with a FINRA member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Flemens consented to the described sanctions and to the entry of findings that he received checks and/or letters of application from public customers to transfer funds to effect the purchase of mutual fund company shares, and delayed entering the checks on his member firm's checks-received blotter and delayed forwarding the checks and processing applications to effect the purchases, thereby failing to execute customer orders.

The suspension in any capacity is in effect from September 4, 2007, through March 3, 2009. **(FINRA Case #2006005294301)**

Daniel Stephan Flitt (CRD #2965169, Registered Representative, Buffalo, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Flitt consented to the described sanction and to the entry of findings that he borrowed \$2,660 from a public customer without his member firm's approval and contrary to his firm's written procedures prohibiting representatives from borrowing money from customers. The findings stated that Flitt failed to respond to FINRA requests for information. **(FINRA Case #2006005734401)**

Maurice Duane Freed (CRD #2308116, Registered Representative, Wichita, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid immediately upon reassociation with any FINRA

member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Freed consented to the described sanctions and to the entry of findings that he engaged in private securities transactions by selling \$185,000 in promissory notes to public customers without prior written notice to his member firm of the sales or his role therein.

The suspension in any capacity is in effect from September 17, 2007, through March 16, 2008. (FINRA Case #20060060747-01)

Mangri Mohini Harlal (CRD #2242211, Registered Representative, Wanaque, New Jersey) was fined \$10,000 and suspended from association with any FINRA member firm in an investment company products and variable contracts representative capacity for six months. The fine is due and payable when, and if, Harlal seeks to return to the securities industry. The sanctions were based on findings that Harlal signed a public customer's name to insurance documents without the customer's permission and authority.

The suspension as an investment company products and variable contracts representative is in effect from August 20, 2007, through February 19, 2008. (FINRA Case #2005000960801)

Philippe Noel Keyes (CRD #1172528, Registered Representative, Valencia, California) was fined \$103,412 and suspended from association with any FINRA member in any capacity for two years and six months. The NAC imposed the sanctions following the SEC's remand of a previous NAC decision. The sanctions were based on findings that Keyes engaged in private securities transactions for compensation without prior written notice to, and written approval from, his member firm. The findings also stated that Keyes provided public customers with misleading sales literature in connection with the sale of promissory notes that were securities.

The suspension in any capacity is in effect from September 10, 2007, through March 10, 2010. (FINRA Case #C0220040016)

Michaelene Kocher (CRD #4712826, Registered Representative, Kingston, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kocher consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #2006007069101)

Jason John Konior (CRD #2818111, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 30 business days. In light of Konior's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Konior consented to the described sanction and to the entry of findings that he recommended the purchase of shares of a volatile and speculative stock to a public customer without having reasonable grounds for believing that this recommendation was suitable for the customer based on the customer's financial

situation, investment objectives and needs. The findings stated that Konior made no reasonable effort to obtain information about the customer's tax or financial status prior to recommending the security.

The suspension in any capacity is in effect from September 17, 2007, through October 26, 2007. **(FINRA Case #2005001078101)**

Michael J. Menendez (CRD #4895632, Registered Representative, Chandler, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Menendez misappropriated approximately \$3,000 that belonged to his member firm's affiliated bank and failed to respond to FINRA requests for information. **(FINRA Case #2006005688201)**

Alvin Saul Mirman (CRD #336645, Registered Principal, Sarasota, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mirman consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request to appear for an on-the-record interview. **(FINRA Case #E072005007001)**

David Anthony Nagler (CRD #1190128, Registered Supervisor, Santa Fe, New Mexico) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine is due and payable either immediately upon reassociation with any FINRA member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the allegations, Nagler consented to the described sanctions and to the entry of findings that he borrowed \$3,000 from a public customer contrary to his member firm's written procedures prohibiting its registered representatives from borrowing or lending money from or to a client under any circumstances. The findings stated that Nagler failed to request or obtain his firm's permission to borrow money from a public customer. The findings also stated that Nagler misled another member firm during the hiring process when he failed to advise the firm that he had been permitted to resign from a previous firm for violating its policy prohibiting borrowing funds from customers.

The suspension in any capacity was in effect from September 4, 2007, through October 1, 2007. **(FINRA Case 2005003406001)**

Timothy John Nicksick (CRD #1174143, Registered Representative, Charleston, West Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Nicksick consented to the described sanctions and to the entry of findings that he signed a public customer's name on application documents to purchase an annuity without the customer's knowledge or consent

The suspension in any capacity is in effect from September 4, 2007, through December 3, 2007. **(FINRA Case #2006006634301)**

Claudia Reyes (CRD #4815334, Registered Representative, Los Lunas, New Mexico) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Reyes consented to the described sanction and to the entry of findings that she received more than \$3,000 from customers of an insurance company affiliate of her member firm. Reyes either failed to forward the full amount of the customers' payments or did not forward any of the payments to the insurance company affiliated with her member firm. The findings stated that Reyes acted without the customers' knowledge and consent, thereby improperly using customer funds. **(FINRA Case #2006006912001)**

Michael Kevin Roberts (CRD #5116615, Associated Person, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for three months. The fine is due and payable either immediately upon reassociation with a member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Roberts consented to the described sanctions and to the entry of findings that he misrepresented material fact on his Form U4.

The suspension in any capacity is in effect from September 17, 2007, through December 16, 2007. **(FINRA Case #2006005193701)**

James Joseph Robison (CRD #857336, Registered Principal, Crownsville, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine is due and payable either immediately upon reassociation with a member following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Robison consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's prior written authorization or his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from August 20, 2007, through August 31, 2007. **(FINRA Case #2006004848501)**

Owen Brian Rosenblum (CRD #1330416, Registered Representative, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rosenblum consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. **(FINRA Case #2007007697701)**

Richard Lewis Serrano (CRD #4201647, Registered Representative, Azusa, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Serrano consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose material information. The findings stated that Serrano failed to respond to FINRA requests for information. **(FINRA Case #2006006216501)**

Elliot Yale Stevens (CRD #4358373, Registered Representative, Granite Falls, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine is due and payable either prior to reassociation with a member firm following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Stevens consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from August 20, 2007, through November 19, 2007. **(FINRA Case #2006005694101)**

Michael Thomas Studer (CRD #707394, Registered Principal, Amityville, New York) was fined \$37,500, jointly and severally with his firm and barred from association with any FINRA member in any capacity. The SEC affirmed the NAC decision that imposed sanctions following appeal of an OHO decision. The sanctions were based on findings that Studer failed to reasonably supervise trading in a public customer's account by ignoring "red flags" that indicated potential problems with the account. The findings also stated that Studer's firm induced a public customer to execute margin guarantees that benefited his firm and exposed the customer to significant risk.

This decision has been appealed to the United States Court of Appeals and all sanctions, other than the bar, are not in effect pending consideration of the case. **(FINRA Case #C3A20010036)**

The suspension in any capacity is in effect from October 1, 2007, through September 30, 2008. **(FINRA Case #E9A2004001901)**

Rockie Lee White Jr. (CRD #5182566, Associated Person, Philadelphia, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that White willfully failed to make material disclosures on his Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2006006150101)**

Individuals Fined

Daniel William Bukovcik (CRD #1684170, Investment Company Products and Variable Contracts Limited Representative, Ovid, Michigan) was fined \$10,000. The NAC imposed the sanction after calling for review a Hearing Panel decision issued by OHO. The sanction was based on findings that Bukovcik affixed public customers' signatures to numerous account documents without their prior written authorization. **(FINRA Case #C8A20050055)**

Andrew Joseph Hardin (CRD #4534287, Registered Representative, Greenville, South Carolina) was censured and fined \$10,000. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Hardin exercised discretion in a public customer's account without prior written authorization. The findings stated that Hardin parked certificates of deposit (CDs) in the customer's account and made false representations to his member firm regarding the reasons for purchasing the CDs. **(FINRA Case #E072004072501)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of August 31, 2007. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions which time for appeal has not yet expired will be reported in subsequent FINRA Notices.

John Christopher Correro (CRD #3179667, Registered Representative, Madison, Mississippi) was fined \$5,000, suspended from association with any FINRA member in any capacity for one year and ordered to requalify by examination before serving in any registered capacity. The sanctions were based on findings that Correro misrepresented the public customers' statuses on mutual fund sales orders to obtain contingent deferred sales charge waivers by falsely claiming that the customers were disabled. The findings stated that Correro's misrepresentations caused his member firm's books and records to be inaccurate.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #E102004083702)**

Brian James Kelly (CRD #2270427, Registered Representative, Severna Park, Maryland) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kelly churned a public customer's account and engaged in trading in the account that was unsuitable due to the quantity of trades and excessive use of margin. The findings stated that Kelly exercised discretion in the customer's account without his member firm's prior written approval.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E9A2004048801)**

Douglas John Toth (CRD #2332079, Registered Principal, Skillman, New Jersey) was suspended from association with any FINRA member in any capacity for one year. In light of Toth's financial status, no monetary sanctions have been imposed. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Toth willfully caused the filing of a Form U4 that failed to disclose a material fact and failed to correct the inaccurate Form U4.

This decision has been appealed to the SEC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E9A2004001901)**

Joseph Andrew Zaragoza Jr. (CRD #2417735, Registered Representative, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Zaragoza effected discretionary transactions in a public customer's account without the customer's prior written authorization and his firm's prior written acceptance of the account as discretionary. The findings stated that Zaragoza recommended and effected excessive trading in the customer's account despite the customer's investment objectives and financial situation. The findings also stated that Zaragoza failed to submit email correspondence to his firm for review and approval before sending it to the customer. The findings also included that Zaragoza engaged in outside business activity for compensation and failed to give his member firm prompt written notice.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E8A2002109804)**

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Charles Edward Atwell (CRD #1208702, Registered Principal, Easley, South Carolina) was named as a respondent in a FINRA complaint alleging that he made unsuitable recommendations to public customers to purchase variable universal life insurance policies without a reasonable basis for making the recommendations given the financial needs and circumstances of the customers. The complaint alleges that Atwell made material misrepresentations or omitted material facts in connection with the variable life insurance sales to public customers. **(FINRA Case #2005001491701)**

Bryan Lee Croger (CRD #2829939, Registered Representative, Noblesville, Indiana) was named as a respondent in a FINRA complaint alleging that he withdrew \$18,398.29 from public customers' bank accounts and used the funds for his own use and benefit without the customers' knowledge and consent. The complaint alleges that Croger sold shares of stock from a customer's securities account without the customer's knowledge

or consent and in the absence of any written or oral authorization to exercise discretion in the customer's account. The complaint also alleges that Croger sold the securities in the customer's account in an attempt to conceal his \$2,000 withdrawal from the account. The complaint further alleges that Croger failed to respond to FINRA requests for documents and information. **(FINRA Case #2006006397601)**

Michael Englese Jr. (CRD #3221850, Registered Representative, Ozone Park, New York) was named as a respondent in a FINRA complaint alleging that he executed purchases of a penny stock in public customers' accounts and failed to provide the customers with the required penny stock disclosures pursuant to the penny stock rules under Rule 15g of the Securities Exchange Act. The complaint alleges that Englese failed to respond to FINRA requests for information. **(FINRA Case #2005002464701)**

Cheryl Diane Jimerson (CRD #1379935, Registered Representative, Sayville, New York) was named as a respondent in a FINRA complaint alleging that she effected securities transactions in public customers' accounts without the customers' prior knowledge, authorization or consent. The complaint alleges that Jimerson engaged in a pattern of unsuitable and excessive trading activity in a customer's Individual Retirement Account (IRA) in light of the customer's objectives, financial situation and needs, and exercised discretionary authority with respect to some transactions in the account even though the customer had not executed any document permitting such discretion. The complaint also alleges that Jimerson engaged in short-term trading of mutual funds in the customer's account without reasonable grounds for believing that the transactions were suitable for the customer based on the customer's financial situation and needs. The complaint further alleges that Jimerson failed to respond to FINRA requests for information and to appear for an on-the-record interview. **(FINRA Case #E102004089201)**

**Firms Expelled for Failure to Pay Fines
and/or Costs in Accordance with
NASD Rule 8320**

Amerifinancial
Boca Raton, Florida
(August 31, 2007)

Archer Alexander Securities Corporation
Kansas City, Missouri
(August 31, 2007)

**Asensio Brokerage Services, Inc. nka
Integral Securities, Inc.**
New York, New York
(August 31, 2007)

J.P.R. Capital Corp.
Syosset, New York
(August 31, 2007)

**Individual Suspended Pursuant to
NASD Rule 9553 for Failure to Pay
Arbitration Fees**

*(The date the suspension began is listed
after the entry. If the suspension has been
lifted, the date follows the suspension
date.)*

Dwight Keith Hazlewood
Little Rock, Arkansas
(June 4, 2007 – August 21, 2007)

**Individuals Revoked for Failing
to Pay Fines and/or Costs in
Accordance with NASD Rules 8320**

Michael Ray Claiborne
Dallas, Texas
August 31, 2007

Dan Alan Harbertson
Fuguay Varina, North Carolina
(August 31, 2007)

Gregory Roy Masceri
Rochester, New York
(August 31, 2007)

Tony Seokoo Paik
Suwanee, Georgia
(August 31, 2007)

Candace Sametini
Boca Raton, Florida
(August 31, 2007)

Kathleen Patricia Smith
Cincinnati, Ohio
(August 31, 2007)

Brian T. Ungerer
Middletown, Delaware
(August 31, 2007)

Individuals Barred Pursuant to NASD Rule 9552(h)

Eduardo Jesus Camejo
St. Petersburg, Florida
(August 13, 2007)

Scott C. Dorenbush
Albertville, Minnesota
(August 21, 2007)

Gerard Costante Gonzalez
St. Petersburg, Florida
(August 6, 2007)

Alan Kreitman
West Palm Beach, Florida
(August 15, 2007)

Larry Joseph McKenney
Apopka, Florida
(August 14, 2007)

Frank Rocco Peperno
Old Forge, Pennsylvania
(August 15, 2007)

Leon Andre Turner
Beaverton, Oregon
(August 22, 2007)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Joshua Kevin Englert
Westminster, Colorado
(August 20, 2007)

Thomas Brian Jordan
Helena, Alabama
(August 14, 2007)

Jason Scott Woessner
Boca Raton, Florida
(August 1, 2007)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Enrico Joseph Franco
Jackson, New Jersey
(August 30, 2007)

Robert Patrick Hodgins
Oyster Bay, New York
(March 17, 2006 - August 21, 2007)

Jason Alexander Lawson
Flushing, New York
(October 18, 2005 – August 21, 2007)

Kevin Mark Luetje
Sarasota, Florida
(August 24, 2007)

George Rushton Marshall
North Logan, Utah
(August 31, 2007)

Xin Shen
San Jose, California
(August 30, 2007)

Daniel Richard Siddons
West Chester, Pennsylvania
(August 30, 2007)

Dean William Urick
Sarasota, Florida
(August 24, 2007)

FINRA Fines Morgan Stanley \$1.5 Million, Orders \$4.6 million In Restitution To Customers Overcharged in Corporate Bond Sales

Firm's Bond Trader, Kenneth S. Carberry, Also Suspended for 15 Days for His Role in Improper Charges In More Than 2,800 Sales

The Financial Industry Regulatory Authority (FINRA) has fined Morgan Stanley DW Inc. (now known as Morgan Stanley & Co. Incorporated) \$1.5 million and ordered the firm to pay more than \$4.6 million in restitution for rule violations relating to the sale of corporate bonds to retail customers at excessive prices. The firm was cited for charging excessive mark-ups in more than 2,800 transactions and for having an inadequate supervisory system for monitoring the pricing of corporate fixed income securities sold to customers.

The firm's corporate bond trader, who was responsible for setting the excessive prices, Kenneth S. Carberry III, was fined \$40,000 jointly and severally with the firm and suspended in all capacities for 15 business days.

NASD's Enforcement Department investigated and settled the action prior to the creation of FINRA, which consolidated NASD and the member regulation functions of the New York Stock Exchange.

"Firms have a fundamental obligation to their customers to offer securities at prices that are fair and reasonable," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "In this case, Morgan Stanley and its bond trader breached that obligation, resulting in excessive mark-ups in more than 2,800 transactions. Firms should carefully monitor the methods used by traders in setting prices to ensure that the prices paid by customers are not excessive."

FINRA found that during a five-month period in 2001, Morgan Stanley charged markups ranging from 5.88 percent to 17.86 percent on 2,807 sale transactions of Kemper Lumbermans Mutual Casualty Surplus Notes in the 9.15 percent and 8.30 percent series, with a face value totaling over \$59 million. In pricing the securities, the firm's corporate fixed income securities trader, Carberry, established the offering price, to which a sales commission was added. However, the firm's procedures failed to provide for a review of the mark-ups charged using the prevailing market price at the time, which in this case was best evidenced by the firm's cost for acquiring the bonds that it later sold to customers. The pricing method used by Carberry and the firm resulted in excessive prices paid by its customers. These transactions were conducted out of the firm's main office in New York City.

In addition, FINRA found that the firm failed to have a supervisory system in place that would have allowed the firm to detect the excessive mark-ups, and failed to properly register the individual responsible for review of the trading activities.

In concluding this settlement, the firm and Carberry neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

The suspension in any capacity was in effect from August 20, 2007, through September 10, 2007.